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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/030,885	10/26/2001	Tony Richard King	5035-114US	6057

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EXAMINER
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HAMZA, FARUK

ART UNIT	PAPER NUMBER
2155	

DATE MAILED: 03/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/030,885

Applicant(s)

KING ET AL.

Examiner

Faruk Hamza

Art Unit

2155

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 October 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 October 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This action is responsive to the application filed on October 26, 2001. Claims 21-40 are now pending.

### ***Specification***

2. This application does not contain an abstract of the disclosure as required by 37 CFR 1.72(b). An abstract on a separate sheet is required.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 21 and 40 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Applicant failed to describe how to download media variables and how download variables improve over time. All the ~~9~~<sup>1</sup> independent claims of 21 are rejected.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 21 and 40 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

7. The term "over time" in claim 21 and 40 is a relative term which renders the claim indefinite. The term "over time" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

8. Claim 21 recites the limitation "the quality". There is insufficient antecedent basis for this limitation in the claim.

9. Claim 23 recites the limitation "the order". There is insufficient antecedent basis for this limitation in the claim.

10. Claim 23 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

***Claim Rejections - 35 USC § 102***

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

12. Claims 21-26,28-30,33-35,37-40 are rejected under 35 U.S.C. 102(e) as being anticipated by Chen et al. (U.S. Patent Number 5,822,524) hereinafter referred as Chen.

13. Chen has disclosed:

- <Claim 21>

A method of delivering a media file to a device on a network in which a server derives the media file from a source file on the server and delivers the media file to the device, the derivation and/or delivery being in compliance with a set of download parameters, the download parameters defining several download and/or media variables; (Fig. 1; Column 3, lines 56-59; Column 6, lines 9-13)

wherein (a) each download and/or media variable relates to a different aspect of the quality of the media file and (b) the download parameters further describe how each of the several download and/or media variables improve over time. (Column 8, lines 16-32)

- <Claim 22>

The method of Claim 21 in which each of the multiple download and/or media variables are selected from a set of download and/or media variables which define all variables representing an aspect of the quality of the media file. (Column 8, lines 16-32).

- <Claim 23>

The method of Claim 21 in which the order in which quality is improved across the multiple download and/or media variables is specified by assigning levels of relative importance to one or more quality parameters associated with the media file. (Column 8, lines 16-32).

- <Claim 24>

The method of Claim 21 wherein the set of download parameters is stored on the server. (Column 6, lines 9-15; Column 8, lines 43-55).

- <Claim 25>

The method of Claim 21 wherein the download parameters are transmitted to the server by the device before or during the delivery of the media file.  
(Column 6, lines 40-55).

- <Claim 26>

The method of Claim 21 wherein the download parameters define one or more of the following download and/or media variables for an image or sequence of images: (Column 8, lines 16-32)

- (i) the spatial resolution of the image or images;
- (ii) the level of distortion in the image or images;
- (iii) the number of displayable frames;
- (iv) the selection of color components within one or more frames; and
- (v) a sub-set of the available frames to be delivered.

- <Claim 28>

The method of Claim 21 wherein the download parameters define one or more of the following: (Column 6, lines 61-67; Column 7, lines 1-2)

- (i) the preferred order in which data is to be transmitted;
- (ii) the rate at which data is to be transmitted to the client;
- (iii) the set of data for the source file that is already stored on the client and does not need to be transmitted; and
- (iii) the maximum amount of data to be transmitted to the client;

- <Claim 29>

The method of Claim 21 in which the derivation of the media file is adapted to take account of one or more of the following: (Column 9, lines 31-48)

- (i) the data size of the original of the source file;
- (ii) the bandwidth available to a client;
- (iii) the current or predicted loading of the server;
- (iv) the resources available on the client for decoding and storing the media.

- <Claim 30>

The method of Claim 21 in which any one or more of the download parameters may be altered by the device after the transfer of the media file has completed and any extra data required to satisfy the revised download parameters are then transferred from the server. (Column 10, lines 40-50).

- <Claim 33>

The method of Claim 21 in which the media file is derived such that the quality of the media file at the device progressively increases as additional data is downloaded to the device. (Column 8, lines 63-67; Column 9, lines 1-5).

- <Claim 34>



The method of Claim 21 in which the media file is derived such that the number of displayable frames in a sequence progressively increase as additional data is downloaded to the device. (Column 4, lines 33-44).

- <Claim 35>

The method of Claim 21 in which some or all of the media file is retained on the device and subsequent use of the source file by the device at a different resolution, quality or frame rate utilizes the retained data together with any additional data that is required. (Column 8, lines 62-67; Column 9, lines 1-6).

- <Claim 37>

A media file which is deliverable using the method defined in Claim 21. (Fig. 4).

- <Claim 38>

A computer program which when running on a device enables the device to receive and playback a media file delivered using the method defined in Claim 21. (Fig. 1, 20).

- <Claim 39>

A computer program which when running on a server or encoder enables the server or encoder to perform the method defined in Claim 21. (Fig. 1, 21)

- <Claim 40>

A server programmed to deliver to a device on a network a media file deriving from a source file stored on the server, wherein the server is programmed to derive the media file from a source file on the server and deliver the media file to the device, the derivation and/or delivery being in compliance with a set of download parameters, the download parameters defining several download and/or media variables; (Fig. 1; Column 3, lines 56-59; Column 6, lines 9-13)

wherein (a) each download and/or media variable relates to a different aspect of the quality of the media file and (b) the download parameters further describe how each of the several download and/or media variables improve over time. (Column 8, lines 16-32).

***Claim Rejections - 35 USC § 103***

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claims 27,31 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen et al (U.S. Patent Number 5,822,524) hereinafter referred as Chen as applied above, and further in view of Taubman (U.S. Patent Number 6,778,709).

16. With respect to claim 27,

Chen teaches, download or media variables (Column 8, lines 16-32).

Chen explicitly doesn't teach distortion of audio or range of audio or audio channel.

However, Taubman in an analogous art teaches distortion of audio.

(Column 3, lines 56-59).

- <Claim 27>

The method of Claim 21 wherein the download parameters define one or more of the following download and/or media variables for audio: (Column 3, lines 56-59).

(i) the distortion of the audio;

(ii) the dynamic range of the audio;

(iii) the number of audio channels to be transmitted; and

(iv) selection of monophonic, stereophonic or quadraphonic audio.

Since the inventions disclosed in Chen and Taubman encompass the same field of endeavor, it would have been obvious to one of ordinary skill in the

art at the time of the applicant's invention to modify the system of Chen by adding distortion of audio to media variables that would make the system more useful. The incorporation of the distortion of audio to media variables in Chen would make the system versatile. (Taubman, Column 1, lines 63-67)

17. As to claim 31 and 36 the rational given is applied in addition Taubman teaches:

- <Claim 31>

The method of Claim 21 in which the media file is generated using a wavelet transform. (Taubman, Column 1, lines 20-27).

- <Claim 36>

The method of Claim 21 in which the data in the media file is structured by an encoder as a bitstream including several discrete bitstream layers, in which layer signaling information which identifies individual layers is inserted by the encoder, the layer signaling information enabling each device to be sent only those layers which satisfy the download parameters specified by that device. (Taubman, Column 14, lines 32-41; Column 18, lines 25-34).

18. Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chen et al (U.S. Patent Number 5,822,524) hereinafter referred as Chen as applied above, in view of Taubman (U.S. Patent Number 6,778,709) and further

in view of Cosman et al. (U.S. Patent Number 6,707,948) hereinafter referred as Cosman.

19. With respect to claim 32,

Taubman teaches Wavelet transform (Taubman, Column 1, lines 20-27).

Chen-Taubman explicitly doesn't teach using SPIHT compression.

However, Cosman in an analogous art teaches using SPIHT compression. (Cosman, Column 6, lines 26-38).

20. As to claim 32, Cosman teaches,

- <Claim 32>

The method of Claim 31 in which the output of the wavelet transform is compressed using SPIHT compression. (Cosman, Column 6, lines 26-38).

Since the inventions disclosed in Chen, Taubman and Cosman encompass the same field of endeavor, it would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to modify the system of Chen by adding SPIHT compression that allows system to produce better quality media file. (Cosman, Column 6, lines 15-25).

### ***Conclusion***

21. The prior art made of record and not relied upon is considered pertinent to the applicant's disclosure.

- Graf (U.S. Patent Number 6,085,221) has disclosed file server for multimedia file distribution.
- Jaisimha et al. (U.S. Patent Number 6,487,663) has disclosed system and method for regulating the transmission of media data.
- Kouloheris et al. (U.S. Patent Number 5,915,094) disclosed method and apparatus for delivering multimedia video data from a server to clients.
- Bolosky et al. (U.S. Patent Number 6,134,596) disclosed a continuous media file server system has a controller connected to multiple data servers.
- Shaw et al. (U.S. Patent Number 6,356,945) discloses a system architecture for multimedia communications.

22. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Faruk Hamza whose telephone number is 571-272-7969. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hosain Alam can be reached at 571-272-3978. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2155

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 886-217-9197 (toll –free).

Faruk Hamza

Patent Examiner

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